

Transcript of Charles Davis, Individually and as Designated Representative

Date: April 11, 2024

Case: USA Football, Inc. -v- FFWCT, LLC, et al.

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Transcript of Charles Davis, Individually and as Designated Representative ¹ (1 to 4) Conducted on April 11, 2024

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS
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                         SHERMAN DIVISION
                                                                                 Appearances.....
                                                                                 CHARLES DAVIS
   USA FOOTBALL, INC.,
                                                                                     Plaintiff,
                                 ) CIVIL ACTION NOS.:
) 4:23-CV-00465
) and 4:23-CV-00516-ALM
                                                                             5
                                                                                                      EXHIBITS
    FFWCT, LLC; USA FLAG, LLC;
                                                                                            DESCRIPTION
    AND TRAVIS BURNETT.
                                                                                ۱7
                 Defendants
                                                                            8
                                                                             9
                ORAL AND VIDEOTAPED DEPOSITION OF
                                                                             10
                   FFWCT, LLC AND USA FLAG, LLC
                                                                             11
          BY AND THROUGH ITS DESIGNATED REPRESENTATIVE,
12
                          CHARLES DAVIS,
                                                                             13
                                                                                            AND IN HIS INDIVIDUAL CAPACITY
                                                                                 Exhibit 34
14
                          APRIL 11, 2024
                                                                             15
                                                                                 Exhibit 35
15
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                                                                                 Exhibit 36
16
                                                                                 Exhibit 37
            ORAL AND VIDEOTAPED DEPOSITION OF CHARLES DAVIS,
                                                                                            Exhibit 38
                                                                                            produced as a witness at the instance of the Plaintiff,
                                                                                 Exhibit 39
19
   and duly sworn, was taken in the above-styled and
                                                                                 Exhibit 40
   numbered cause on April 11, 2024, from 9:06 a.m. to
                                                                             21
                                                                                 Exhibit 41
                                                                                            6:26 p.m., before Kim A. McCann, CSR in and for the State
                                                                             22 Exhibit 42
22 of Texas, reported by machine shorthand, at the offices
   of Scheef & Stone, LLP, 2600 Network Blvd., Suite 400,
                                                                             24 Exhibit 43
   Frisco, Texas, pursuant to the Federal Rules of Civil
                      APPEARANCES
                                                                                            Email dated 12/27/20 from Aaron Ingram to Fric Mayes re Added "USA Flag", USAFB 1079.....
                                                                                 Exhibit 44
   FOR THE PLAINTIFF:
                                                                                            USAFB 1079...
Letter dated 11/21/23 from Peele Law
Group to Scheef & Stone re
USA Football, Inc. V. FFWCT, LLC and
        Anne K. Ricchiuto, Esq.
PEELE LAW GROUP
        49 Boone Billage
Box 299
Zionsville, Indiana 46077
                                                                                            l 5
                                                                                 Exhibit 46
        (202) 964-4500
(202) 964-4502
        aricchiuto@peelelawgroup.com
   FOR THE DEFENDANTS FFWCT, LLC; USA FLAG, LLC; AND TRAVIS BURNETT:
                                                                                           Exhibit 47
        Bryan Haynes, Esq.
Taylor L. Harris, Esq.
SCHEEF & STONE, LLP
2600 Network Blvd.
Suite 400
                                                                             9
                                                                             10
                                                                                 Exhibit 49
                                                                             11
        Frisco, Texas 75034
(214) 472-2100
(214) 472-2150 fax
12
                                                                             13
13
        Bryan. Haynes@solidcounsel.com
                                                                             14
                                                                                 Exhibit 51
                                                                                 Exhibit 52
15
   ALSO PRESENT:
                                                                                           16
       Brian Krieger, Videographer
Travis Burnett
                                                                                 Exhibit 53
                                                                             17
                                                                             18
                                                                                 Exhibit 54
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                                                                                 Exhibit 55
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                                                                                 Exhibit 56
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Transcript of Charles Davis, Individually and as Designated Representative ² (5 to 8) Conducted on April 11, 2024

		Conducted on April 11, 2024
1	TAIDEY (Cont.)	5 PROCEEDINGS
2	INDEX (Cont.) Exhibit 58 Email dated 8/17/22 from Charles Davis	1 PROCEEDINGS
2	to Curtis Holloman, Steve Neil, Travi: Burnett re Email for Troy & The Team	2 THE VIDEOGRAFILER. Here begins wedia
1	(Final), CH 106 Exhibit 59 Email dated 8/22/22 from Charles Davis	
5	to Curtis Hollomon re Update, follow up & Zoom, CH 103	4 Charles Davis both individually and as
6	Exhibit 60 Email dated 8/31/22 from Steve Neil to Charles Davis re Deal Points Start, Cl	5 representative of FFWCT and USA Flag. This is in
7	Exhibit 61 Zoom meeting invitation re 1pm NFL &	
8	USA Flag, FFWCT 441 Exhibit 62 Email dated 10/4/22 from Charles Davis	7 FFWCT, LLC, et al. This is in the United States
9	re Working Document for Call, FFWCT 7370 to FFWCT 7383	O District Court for the Forton District of Torre
10	Exhibit 63 Email dated 10/22 Exhibit 64 Email dated 10/4/22 from Charles	9 Sherman Division filed as Civil Action Numbers
11	Davis, Screenshots of text messages ro Izell & Travis Convo, FFWCT 7412	10 4:23-CV-00465 and 4:23-CV-00516-ALM.
12	Exhibit 65 Email dated 10/10/22 from Charles Davis	323 11 Today's date is Thursday April 11
13	Exhibit 66 Email string dated 11/16/22 from Steven Neil, FFWCT 7509	
14	Exhibit 6/ Email dated 11/1//22 from Curtis Hollomon to Roman Oben re USA Flag	12 The video grapher today is Prior Vrigger
15	Proposal Follow-up, CH 115 Exhibit 68 Complaint filed by FFWCT, USA Flag and	
16	Travis Burnett	
17	Curtis Hollomon re USA Flag Proposal Follow-up, NFL 49	15 is taking place at 2600 Network Boulevard,
18	Exhibit 70 Email string dated 11/17/22 from Charles Davis re Tampa VIP Visitors List, CH 69	16 Suite 400 in Frisco, Texas.
19		17 If counsel would please identity
20	Steps, CH 59Exhibit 72 Email dated 12/20/22 from Charles	18 themselves and please state who they represent.
21	Davis re NFL Pro Bowl Games Las Vegas CH 40	19 W.S. KICCITO TO. Affile Recenturo for
22		20 USA Football. And sorry and I also have
23	points, CH 2 Exhibit 74 Email dated 8/30/23 from Charles Davis	21 = ============================
24	to Curtis Hollomon and Steve Neil re 7v7 Pivot - Ignitor needed, CH 39	363 MR. HAYNES: Bryan Haynes for WWCT,
25	,	23 LLC, USA Flag, LLC, and Travis Burnett. And
		24 Taylor Harris is also present.
		25 THE VIDEOGRAPHER: Okay. Our court
		6 8
1	INDEX (Cont.)	1 reporter today is Kim McCann also representing
2	Exhibit 75 Email string dated 8/31/22 from Travis	2 Planet Depos. And now the witness will be sworn.
1.	Burnett re USA Flag Follow Un FFWCT	2 I failet Depos. And now the witness will be sworn.
3	Burnett re USA Flag Follow Up, FFWCT 7695	366 2 CHADLES DAVIS
4	7695 Exhibit 76 Email dated 2/29/24 from Charles Davi: to Curtis Hollomon re USA Football subpoenas, CH 41	CHARLES DAVIS, Having been first duly sworn, testified as
3 4 5	7695. Exhibit 76 Email dated 2/29/24 from Charles Davis to Curtis Hollomon re USA Football subpoenas, CH 41	CHARLES DAVIS, Having been first duly sworn, testified as follows:
3 4 5 6	7695. Exhibit 76 Email dated 2/29/24 from Charles Davis to Curtis Hollomon re USA Football subpoenas, CH 41. Exhibit 77 USA Flag Football Rulebook. Exhibit 78 Printout from USA Flag's website printed on 7/13/23. Exhibit 79 Email dated 10/24/22 from Travis	CHARLES DAVIS, Having been first duly sworn, testified as follows:
3 4 5 6 7	Exhibit 76 Exhibit 76 Email dated 2/29/24 from Charles Davis to Curtis Hollomon re USA Football subpoenas, CH 41. Exhibit 77 Exhibit 78 Exhibit 78 Exhibit 79 Exhibit 79 Email dated 10/24/22 from Travis Burnett to Steve Neil and Charles Davis re USOPC Member Application,	CHARLES DAVIS, Having been first duly sworn, testified as follows: EXAMINATION RYMS RICCHILITO:
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11 12 13 14 15 16 17 18 19 20 21 22	7695. Exhibit 76 Email dated 2/29/24 from Charles Davit to Curtis Hollomon re USA Football subpoenas, CH 41. Exhibit 77 USA Flag Football Rulebook	366370376376377376381381384388388400402388400402402402402403404402404405407408408409409402401408408409402401402403404402405406407408408409409401402402403404403404404405406406407408408409409409400
111 122 133 144 155 166 177 188 199 200 211 222 233	7695. Exhibit 76 Email dated 2/29/24 from Charles Davit to Curtis Hollomon re USA Football subpoenas, CH 41. Exhibit 77 USA Flag Football Rulebook	366370376376377381381381384388388400402402402402402402403421388406420421388406420421420421421420421420421420421421420421420421421420421420421420421421420421420421420421420421420421420421421420421420421420421421420420421420420421420420421420420420421420420420420420420421420420420421420
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11 12 13 14 15 16 17 18 19 20 21 22 23 24	7695. Exhibit 76 Email dated 2/29/24 from Charles Davit to Curtis Hollomon re USA Football subpoenas, CH 41. Exhibit 77 USA Flag Football Rulebook	366370376376377381381381384388388400402402402402402402403421388406420421388406420421420421421420421420421420421421420421420421421420421420421420421421420421420421420421420421420421420421421420421420421420421421420420421420420421420420421420420420421420420420420420420421420420420421420

17	19
1 opportunity that I explored doing it outside of	1 school level. Boys don't even play it in
2 just being a player.	2 high school. So I don't believe it's normal
Q. At that time, were you employed in	3 football, in my opinion. I believe it's a
4 some other capacity?	4 completely different sport that just obviously
5 A. 2015, yes, I was working for Nestlé.	5 shares the same type of ball, in my opinion.
6 Q. In what type of role?	6 Q. Flag football has more in common with
7 A. I was in a marketing and basically a	7 tackle football than than flag football has in
8 the I handled the distribution center in	8 common with something like soccer.
9 Indy.	9 Do you agree with that?
Q. Okay. We have that in common; we've	10 A. I'm not I'm not sure. I'd have to
11 talked about that.	11 kind of sit down and compare apples to oranges.
12 How did you meet Travis?	12 But I'd generally say maybe, possibly. But I'd
13 A. Random phone call. I had a friend in	13 I'd have to sit down and kind of compare
14 Chicago who wanted to throw a football	14 apples to apples.
15 tournament or flag football tournament, I	Q. When someone says, I'm going to watch
16 should say. He wanted some traveling teams, and	16 a football game this weekend, what do you what
17 I said I think I just saw a blog online that	17 does that bring to mind for you?
18 listed flag football tournaments. I'll give it	A. If I'm sitting down watching a
19 shout and see it could be of service. And I gave	19 football game, I would assume they're going to
20 it a shout, and that handsome gentleman over	20 watch tackle football.
21 there decided the answer and, you know, we we	Q. Okay. And what about, I'm playing in
22 hit it off.	22 a football game this weekend?
Q. So you reached out to him on behalf	A. I would assume they're going to play
24 of someone else?	24 tackle as well.
25 A. Yes.	Q. So how would someone connote to you
18	
1 Q. Kind of informally?	1 that they're playing flag or they're watching
2 A. Yes.	2 flag?
Q. And then what happened next?	A. In my experience, they're going say,
4 A. We were on the phone for	4 Hey, are we going to playing flag this weekend,
5 probably all I'll just say all day. I won't	5 you know, We got a pickup flag game, or, Hey, you
6 even put a number on it. It was it was all	6 want to play in this flag tournament? They
7 day. I paced up and down the sidewalk. We	
	7 THE REPORTER: Slow down.
8 discussed flag football and the general landscape	
9 and how we both had, you know, ideas on how to	 THE REPORTER: Slow down. THE WITNESS: Sorry. A. They rarely ever, you know, say, hey,
9 and how we both had, you know, ideas on how to 10 make the sport better and we both thought it	 7 THE REPORTER: Slow down. 8 THE WITNESS: Sorry. 9 A. They rarely ever, you know, say, hey, 10 we're playing football this weekend because
9 and how we both had, you know, ideas on how to 10 make the sport better and we both thought it 11 should be more mainstream. And, you know, it's	 THE REPORTER: Slow down. THE WITNESS: Sorry. A. They rarely ever, you know, say, hey, we're playing football this weekend because it's again, it's just different, in my
9 and how we both had, you know, ideas on how to 10 make the sport better and we both thought it 11 should be more mainstream. And, you know, it's 12 just kind of goofy to think about now that, you	THE REPORTER: Slow down. THE WITNESS: Sorry. A. They rarely ever, you know, say, hey, we're playing football this weekend because it's again, it's just different, in my experience at least.
9 and how we both had, you know, ideas on how to 10 make the sport better and we both thought it 11 should be more mainstream. And, you know, it's 12 just kind of goofy to think about now that, you 13 know, that was just a random phone call and kind	7 THE REPORTER: Slow down. 8 THE WITNESS: Sorry. 9 A. They rarely ever, you know, say, hey, 10 we're playing football this weekend because 11 it's again, it's just different, in my 12 experience at least. 13 Q. So you and Travis had you hit it
9 and how we both had, you know, ideas on how to 10 make the sport better and we both thought it 11 should be more mainstream. And, you know, it's 12 just kind of goofy to think about now that, you 13 know, that was just a random phone call and kind 14 of where we are now. But yes, it was just some	THE REPORTER: Slow down. THE WITNESS: Sorry. A. They rarely ever, you know, say, hey, we're playing football this weekend because it's again, it's just different, in my experience at least. Q. So you and Travis had you hit it off quite swimmingly, it sounds like.
9 and how we both had, you know, ideas on how to 10 make the sport better and we both thought it 11 should be more mainstream. And, you know, it's 12 just kind of goofy to think about now that, you 13 know, that was just a random phone call and kind 14 of where we are now. But yes, it was just some 15 of the things we discussed at that point.	7 THE REPORTER: Slow down. 8 THE WITNESS: Sorry. 9 A. They rarely ever, you know, say, hey, 10 we're playing football this weekend because 11 it's again, it's just different, in my 12 experience at least. 13 Q. So you and Travis had you hit it 14 off quite swimmingly, it sounds like. 15 How did you start to think about
9 and how we both had, you know, ideas on how to 10 make the sport better and we both thought it 11 should be more mainstream. And, you know, it's 12 just kind of goofy to think about now that, you 13 know, that was just a random phone call and kind 14 of where we are now. But yes, it was just some 15 of the things we discussed at that point. 16 Q. Is is flag football subset of	THE REPORTER: Slow down. THE WITNESS: Sorry. A. They rarely ever, you know, say, hey, we're playing football this weekend because it's again, it's just different, in my experience at least. Q. So you and Travis had you hit it doff quite swimmingly, it sounds like. How did you start to think about working together in terms of in a more formal
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Conducted of	on April 11, 2024
133	135
1 works, what do we have to offer, what do they	1 A. No.
2 have to offer in those regards. But in terms of	Q. Is that a goal of USA Flag?
3 confusing us as the same person, no.	3 A. To have a formal relationship with
4 Q. How do you answer a question like	4 USA Football or I'm sorry.
5 that?	5 Q. To have people believe that there
6 A. Typically my answer is again, I'm	6 must be one.
7 going to paraphrase because obviously I can add a	7 A. No.
8 "and" here and a "the" there.	8 Q. What steps do you take to make sure
9 Q. Sure.	9 that people don't get confused?
10 A. But typically when someone asks me,	10 A. What steps do we take to ensure
11 you know, what is the difference, or they'll say,	11 people aren't confused that we're USA Football?
12 you know, what is the called cincle cec, of they it say,	12 Q. Right.
_ · ·	
13 guys and USA Football, I'd say at this current	13 A. We keep running our tournaments. We
14 time, we don't have a contractual relationship.	14 have our own brand identity. We have our own
15 We're not affiliated in any shape, form, or	15 operations team, our own website. Everything we
16 fashion.	16 do is completely different, and it doesn't say
In the past you may have seen things	17 USA Football. So fundamentally we're different
18 where we work together where they've use our	18 from the start.
19 events to scout, but at this current juncture	19 (Exhibit 36 was marked.)
20 right now, we don't have a working relationship.	Q. This is what's been marked as
Q. And what about the question about how	21 Exhibit 36. Now, I'm going to require I'm
22 do you co-exist?	22 going to rely on your great expertise here of
23 A. How we co-exist is we run our	23 socials this side of this.
24 tournaments and run and they do their thing on	24 Is this a some sort of social
25 their own. We don't have any kind of crossover	25 media post by Flag Football World Championship
134	136
1 in its current form. All of our tournaments are	1 Tour Community?
2 listed here on our website. You would have to go	2 A. Yes.
3 to their website to find out exactly what they're	Q. What is the community part of it? Is
4 doing on their side.	4 it its own page?
5 Q. How often do you get a question like	5 A. So the community is just a Facebook
6 that?	6 group where flag football players can congregate,
7 A. Not very often.	7 talk about play strategy, ask questions about
8 Q. When's the last time you got one?	8 tournaments we run, things of that nature. It's
9 A. Maybe once in the last six months.	9 a social function for them to be and have like a
10 Maybe twice once or two.	10 safe space.
11 Q. Who is that that asked you that?	11 Q. Like, could I join it or
,	
12 A. I had Scott at Nike ask me kind of 13 what the relationship was between the two brands,	12 A. Yeah.
•	Q do you have to be a player?
14 kind of what each is doing. And I can't recall	A. No. Anybody can join it.
15 who the second one is off the top of my head.	15 Q. Okay. And this I don't know the
16 But I know there was at least at least two.	16 date of this, but you tell me if you have a magic
Q. Is it a goal at all for third parties	17 way to know.
18 who encounter USA Flag to have the impression	18 A. I don't. I'm sorry.
19 that USA Flag is associated in some way with	Q. The Bates number on this, by the way,
20 USA Football? Is that a goal of yours?	20 for the record is USAFB 1650. The only hint I
21 MR. HAYNES: Objection. Form.	21 have about the date is that it's announcing the
22 A. No.	22 2023 Tournament Series or at least reflecting
23 MR. HAYNES: Oh, I'm sorry.	23 it. Maybe not announcing but
24 A. Is that a goal of ours?	24 A. Yes.
	24 16 163.
25 Q. Is that a goal of Mr. Davis?	25 Q saying here's the next year's

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1 Exhibit 38. Is this also a social media page,	1 like the original setup of the account and then
2 Mr. Davis?	2 there's your persona
3 A. Yes. This looks to be our our	3 A. Yeah.
4 Instagram page that was originally FFWCT, that	4 Q your handle?
5 was renamed to USA Flag Football for	5 A. Yeah, so to speak. It's kind of like
6 forward-facing purposes.	6 what you're you're going by. It almost
7 Q. A couple of things: How can you tell	7 like a d/b/a if you associate.
8 that this is Instagram?	8 Q. Okay. Could you change your handle
9 A. So our if the	9 every day?
	10 A. No. You're not allowed to do that.
	1-7
11 asking.	Q. How often are you allowed to change
12 A. Yeah, so the the handle on the top	12 it?
13 left	A. I'm not exactly sure on how what the
14 Q. Uh-huh.	14 frequency is, but you only have a certain
15 A it says usaflagfb, that's our	15 certain amount of times you can change it, like,
16 Instagram handle.	16 per year. And then you can only change it a
17 Q. Okay.	17 certain amount of times, you know, in general.
18 A. That's the only social media that it	18 You can't just go change it every single day.
19 would appear like that.	19 Q. From a social media perspective, is
20 Q. Tell me about you just mentioned	20 it good to change it or not good to change it?
21 renaming the handle.	21 A. Obviously if you're operating
22 A. Yes.	22 business, you want to represent your business as
Q. So there so this same account	23 as best you can. So with us having USA Flag
24 existed but it had a different name?	24 as a forward-facing brand, it made the most sense
25 A. Yes. It was FFWCT.	25 to tweak our social media handle to represent the
146	148
	148 1 same.
1 Q. So it wasn't you didn't close 2 FFWCT and make a new account?	1 same.
1 Q. So it wasn't you didn't close 2 FFWCT and make a new account?	1 same. 2 Q. Okay. And do you remember
 Q. So it wasn't you didn't close FFWCT and make a new account? A. Correct. 	1 same. 2 Q. Okay. And do you remember 3 approximately when you changed the handle?
 Q. So it wasn't you didn't close FFWCT and make a new account? A. Correct. Q. Do your how does that work with 	 same. Q. Okay. And do you remember approximately when you changed the handle? A. I don't. It would have had to have
1 Q. So it wasn't you didn't close 2 FFWCT and make a new account? 3 A. Correct. 4 Q. Do your how does that work with 5 like, is it just as easy as I go in Insta and I	 same. Q. Okay. And do you remember approximately when you changed the handle? A. I don't. It would have had to have been the same time we made the forward-facing
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Conducted	on April 11, 2024
149	151
1 Q. A what?	1 us for a repost.
2 A. It's called Threads.	Q. So is that mack_attack?
3 Q. What's that?	3 A. Yes. That's why I believe they say,
4 A. I don't know yet.	4 I appreciate the support. If you notice, under
5 MR. HAYNES: It it it's	5 the usaflagfb that's kind of in that rectangle
6 connected to Instagram. It's Instagram's	6 box, you notice the three dots.
7 A. It's almost like a Twitter.	7 Q. Uh-huh.
8 MR. HAYNES: response to Twitter.	8 A. So typically when you repost
9 THE WITNESS: Yeah.	9 someone's content, it will copy the caption they
10 MS. RICCHIUTO: All people who do not	10 wrote and repost the photo as well. So if
11 want to be on X.	11 someone requests that, Hey, will you share my
12 Q. You're not on Threads?	12 photo or my video or my highlight, you basically
13 A. It gives you one automatically now,	13 can hit repost, it will repost their caption that
14 so I I looked and we had one one day.	14 they wrote and the photo that they posted.
15 Q. Oh, Insta?	15 Q. What about their hashtags?
16 A. Yes.	16 A. It will repost everything they did.
17 Q. Again, I I I'm impressed with	17 So basically whatever they've posted, it's just
18 Bryan here, and I will consult with my teenager	18 going to recopy that and post it to ours for
19 for further information.	19 additional visibility.
Okay. What I want to ask you about	Q. It would be like a share on Facebook?
21 with this document, I we don't know exactly	21 A. Yes.
22 when this is from other than we know that it was	Q. Okay. I'm old so I know that one
23 sometime after the switch, so Q4 or later.	23 sort of the best.
Do you agree with that Q4 of 2022	24 If you wanted to, can you change the
25 or later?	25 hashtags?
150	152
1 A. Yes.	A. To my knowledge, I believe you can
Q. There are do they still call them	2 now. At the time when you reposted, I don't
3 hashtags?	3 think you could. I think you had to take it as
4 A. Yes.	4 is. Now you can.
5 Q. Okay. There are or sometimes they	5 Q. So we don't know exactly when this
6 call it tagging or like what would you call	6 was and what the policy was, I understand that.
7 the hashtag here?	7 A. Right.
A. They would just be be hashtags.	8 Q. If this happened today and
9 Just public public domain hashtags.	9 mack_attack128 tagged USA Flag and had all these
10 Q. Okay. And the hashtags here are 11 #usafootball, #usatheone, #usnft, #flagfootball,	10 other hashtags, is there any policy or practice
11 #usarootoan, #usarneone, #usnit, #nagrootoan, 12 #football, #usaflag, and #ffwct.	11 in place about what you would do about those 12 hashtags?
1	13 A. Yeah, just just for common 14 common courtesy in the space, I I wouldn't use
14 A. Yes.15 Q. Okay. And that I think the content	15 hashtags that more than likely USA Football uses
16 there is saying: To the house. I don't know how	16 the most. So their #usafootball, #usatheone, and
17 I pulled off the move.	17 #usnft, I I would not use those hashtags for
18 Agree?	18 the posts.
19 A. Yes.	19 Q. And when did you start having that
20 Q. I perceive that to be a complement to	20 common courtesy policy?
21 someone who is playing flag football that did	21 A. When we no longer had a working
22 something very neat.	22 agreement, I stopped using those just just for
23 A. Yeah, so this would this would be	23 common courtesy.
24 a to my appearance, this is a repost of	24 Q. And that's right now we're talking
25 someone else's content that tagged us and asked	25 about like a repost scenario, which might be
25 someone cise s content that tagged us and asked	25 about like a repost section to, which might be

Conducted on April 11, 2024

Conducted	711 pm 11, 2021
205	207
1 Q. Well, have have you taken it down?	1 A. Yes.
2 A. I couldn't tell you either way. I	2 Q. With respect to other platforms, do
3 don't do the website so I don't know.	3 you have the ability to remove those tags or
4 Q. Who does the website?	4 "ats" or whatever it is that would that would
5 A. Your friend, Travis.	5 direct a viewer to another account?
6 Q. Okay. Have you had any conversations	6 A. Instagram is pretty pretty
7 about taking this photo down?	7 specific in that it honestly, it's probably
8 A. No, I don't believe so.	8 the only one of the popular social media
9 Q. Were you aware that you've been	9 platforms that has a lot of that that type of
10 requested to take it down?	10 resharing functionality. Twitter has some but
11 A. I don't believe so, no.	11 it's they don't operate like Instagram does.
12 Q. Okay. If it were a new request that	12 Instagram is kind of a unique
13 came to you not from a lawyer, and Brittany	13 scenario off by itself in an outlier. Those same
14 texted you and said, Hey, we're worried about	14 type of situations that we discussed previously
15 this picture, can you just take it down, please;	15 with, you know, us reposting something that has a
16 it's right on the front of your website, we're	16 hashtag pertinent to someone else specifically or
17 worried about it's confusing, can you just take	17 used more than, you know, by someone else, that
18 it down, would you take it down?	18 doesn't really apply on a Facebook or especially
19 A. In this current moment, like just	19 a Snapchat where the stuff's only there for 24
20 right now?	20 house. That's just nonexistent; there's none of
21 Q. Sure.	21 that there.
22 A. I definitely would discuss it. I	Facebook you can share a post but
23 mean, I'm not I'm not not opposed to	23 it's it's super manual and you don't really
24 anything. I would definitely have a conversation	24 get the players on your feed to be able to see
25 about it.	25 those. So those are those don't really happen
206	208
1 Q. When you just look at this photo and	1 either.
2 you read the caption which doesn't say anything	2 YouTube we don't use very much and we
2 you read the caption which doesn't say anything3 about USA Football	2 YouTube we don't use very much and we 3 don't get tagged on YouTube, so that that
 2 you read the caption which doesn't say anything 3 about USA Football 4 A. Right. 	2 YouTube we don't use very much and we 3 don't get tagged on YouTube, so that that 4 doesn't apply to the scenario either. I'm trying
 you read the caption which doesn't say anything about USA Football A. Right. Q can you understand why there's 	YouTube we don't use very much and we don't get tagged on YouTube, so that that doesn't apply to the scenario either. I'm trying to think what else we use. Threads is so new we
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	Conducted C)11 .	April 11, 2024
1	209		Q. And the content on all of the sites
1	only functionality you have at that point is you	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	with the handles that you've just described, that
2	can go to that post and remove yourself from the tag. But in terms of editing anything they		is content that was either posted by you
3	actually physically typed, you don't have that	3	personally or is somehow attributable to
4	functionality to edit that at all.	4	USA Flag?
5	Q. Can you remove others than	5	A. Yes.
6	yourself	6	Q. Did there come a time we're going
8	A. No.	7 8	to switch gears when USA Flag decided to
9	Q from tags?	9	approach or or I guess it could have been
10		1-	before that decided to approach the NFL about
11			a collaboration?
	I have all your handles. So we've LinkedIn we	12	
	looked at physically. Is there any other		time. I'm so sorry.
	LinkedIn page for USA Flag? FFWCT? FlagSpin?	14	
15			Travis, in whatever corporate form at the time,
	is our original FFWCT LinkedIn page that we		wanted to approach USA Flag about a
	re-branded to USA Flag.		collaboration I mean, the NFL.
18		18	
19	The state of the s	19	
20	the state of the s	20	•
21		21	
	Flag Football World Championship Tour account.	22	
	For whatever reason our master account still says	23	
	we're the Flag Football World Championship World		you-all had any conversations with anybody at the
	Tour, even though the forward-facing portion of		NFL?
	210	-	212
1	it says USA Flag. So that's Facebook's side.	1	A. Directly?
2	We have the USA Flag Community group,	2	Q. Sure.
3	which is a group on Facebook, it's just kind of a	3	A. The first time I had a direct
4	public group. It's not really a formal business	4	conversation with anybody at the NFL was during
5	page like the regular pages on Facebook.	5	our in-person meeting with myself, Travis, Steve
6	FlagSpin has a page. USA 7-on-7 has a page. I	6	Neil and Curtis Hollomon. I can't remember the
7	think that's it, to my knowledge.	7	exact month we were there, but I feel like I
8	Q. For Facebook?	8	can't remember what month it was, honestly. But
9	A. Yes, ma'am.	9	that was the first time speaking to anybody at
10	Q. What about Instagram?	10	the NFL.
11	A. Instagram, FlagSpin has a page. We	11	Q. Maybe August of 2022?
	have the usaflagfb Instagram account that used to	12	A. Something something like I
13	be FFWCT that we branded on the front. There's	13	really don't remember the exact month.
14	the Mex Flag as well, and then there's a	14	Q. Okay. Prior to that, were there
15	USA 7-on-7 page as well.		so you were not involved in any outreach or
16		16	communications with the NFL before that?
17		17	•
	handle, which I believe it's fully spelled out		communication was done via us directly through
	USA Flag Football because, again, social media is		Curt and Steve, and then they directly talked to
	is first-come-first-served. So usaflagfb was not		Troy and and Co., I would say.
	available. Somebody already had that for some	21	
	reason or somehow, so we had to go USA Flag	22	· · · · · · · · · · · · · · · · · · ·
	Football for that one. And then FlagSpin has	23	~
la.		1	EEWCT 1074 411 1000 This is an arrest dated
	has a a handle as well. USA 7-on-7 has a		FFWCT 1074 through 1088. This is an email dated
	has a a handle as well. USA /-on-/ has a handle as well for those.		March 16, 2017, from Football World Tour to

	Conducted of	on.	April 11, 2024
	373		375
1	involves communication with your lawyers.	1	A. I I believe I am aware of that. I
2	THE WITNESS: Okay.	2	vaguely remember.
3	Q. How much subpoenas do you understand	3	Q. Did you read that transcript?
4	that I have prepared for Steve Neil?	4	A. I don't believe I did, to my
5	A. I just know that were going to serve	5	knowledge right now. Sorry.
6	him the one subpoena.	6	Q. If your expert testified about
7	Q. Okay. And what I want to know is if	7	mathematical errors in his report as a result of
8	you've talked to him and told him not to accept	8	mathematical errors in some of the proposals made
9	it?	9	to the NFL, do you have any reason to say that
10		1.	testimony's not right?
11		11	
	on him?		2 his calculations or computations. I'm I'm
13			3 no expert for sure.
	I don't know anything after that.	14	-
			· · · · · · · · · · · · · · · · · · ·
15	Q. Okay. Curtis told me something to the effect of Steve saying, You're going to have		5 today, how much money are you hoping to achieve 5 by filing a lawsuit against USA Football?
	to find me basically. And I'm curious whether		
		17	
	Steve has said that to you also?		3 specific number. That's up to the Court. I have
19			no no dog in that fight, so to speak, in the
	Steve or Curt.		number or request.
21		21	
	Steve Neil's business address at Nyne Global is	22	<u>*</u>
	200 Miranova Place?		3 \$7, like I that's totally up to the Court.
24	· · · · · · · · · · · · · · · · · · ·	24	
25	address is.	25	5 entitled to some money from USA Football?
	374		376
1	Q. Okay.	1	A. I believe so, yes.
2	A. I haven't mailed them anything or	2	Q. Has USA Flag ever described itself as
3	been there.	3	a governing body or anything along those lines?
4	Q. Do you know if Steve Neil moved in	4	MR. HAYNES: Objection. Form.
5	the last 60 days?	5	A. I believe we've called ourselves a
6	A. In the last I couldn't tell I	6	governing organization or I know we've called
7	haven't had any conversations with Steve or Curt.	7	ourselves a governing organization for sure. I
8	Q. Okay. So if I can't find him, it's	8	don't know if we've ever called ourselves an NGB,
9	not because you told him to hide?	9	maybe like a self-appointed governing something,
10	· ·		maybe. I couldn't recall specifically.
11		11	
	I'm not going to know his first name.		2 something like that?
13	<u>*</u>	13	
	case with the last name Porter.		s <mark>ection probably.</mark>
15	<u> </u>	15	
16	- · ·		6 <mark>content?</mark>
	I'm sorry.	17	· · · · · · · · · · · · · · · · · · ·
18			3 <mark>content.</mark>
	your behalf has submitted a report saying how	19	
	much money you-all should be entitled to as a	20	
	result of your lawsuit?	21	
22	-	22	
23	that re prepared a report, yes.		but it was filed with the Court. On page 2 of
24	Q. Okay. Do you are you aware the	24	this document, you see some highlighted language.
25	expert was depose?	25	Well, first of all, what is this?
_		_	

Conducted on April 11, 2024

	377		379
1	A. This looks like our general rules on	1 governing body for all forms and styles of the	317
2	our website.	2 sport.	
3	Q. Okay. And from the date on this when	3 So you just told me about how	
4	it was printed, I believe that it reflects that	4 sensitive national governing body is.	
5	it was printed on July 6, 2023.	5 A. Correct.	
6	Do you see that?	6 Q. But you felt like ultimate governing	
7	A. I do.	7 body did not cause that same connotation for	
8	Q. Okay. And it says: (As read) We	8 someone who is understanding or or reading	
9	declare USA Flag the self-appointed national	9 those words?	
-	governing organization of the sport of flag	10 A. Correct.	
	football through common consent of our	11 Q. So the average person would know, oh,	
	participating teams.	12 this isn't the national governing body, it's the	
13		13 ultimate governing body?	
		14 A. I wouldn't be privy to what the	
14		_ · ·	
15		15 average person would know. I'm sorry.	
	mean? A. Because a lot of teams, players all	Q. Well, you just gave me a big	
17		17 explanation about how important it was not to say	
	view us as kind of the pillar in flag football in	18 those letters in a row, and I think those letters	
	playing our events in in in large	19 you were referring to were NGB.	
	quantities, we believe we're a governing-type	20 A. Correct.	
	organization that dictates rules, dictates	Q. But UGB, fair game in your mind?	
	competition, hosts competitions, and organizes	22 A. Yes.	
	events. So by that theory we make that	23 Q. Why?	
	statement.	A. Because, again, I believe the term	
25	Q. Where did you get the understanding	25 specifically "national governing body" right in a	ì
	378		380
1	that there could be a self-appointed national	1 row, those three letters sequentially are	380
1 2	that there could be a self-appointed national governing organization?	2 protected, as well as the acronym "NGB" are	380
3	that there could be a self-appointed national governing organization? A. Just by kind of going through the	2 protected, as well as the acronym "NGB" are 3 federally protected. So we don't use those	380
3	that there could be a self-appointed national governing organization? A. Just by kind of going through the years and seeing other organizations do the same	2 protected, as well as the acronym "NGB" are 3 federally protected. So we don't use those 4 those three.	380
3 4 5	that there could be a self-appointed national governing organization? A. Just by kind of going through the years and seeing other organizations do the same thing, we assumed we can do the same thing as	 2 protected, as well as the acronym "NGB" are 3 federally protected. So we don't use those 4 those three. 5 Q. How would someone reading this know 	380
3	that there could be a self-appointed national governing organization? A. Just by kind of going through the years and seeing other organizations do the same thing, we assumed we can do the same thing as well.	 2 protected, as well as the acronym "NGB" are 3 federally protected. So we don't use those 4 those three. 5 Q. How would someone reading this know 6 the difference between and ultimate governing 	380
3 4 5 6 7	that there could be a self-appointed national governing organization? A. Just by kind of going through the years and seeing other organizations do the same thing, we assumed we can do the same thing as well. Q. What other organizations have done	 2 protected, as well as the acronym "NGB" are 3 federally protected. So we don't use those 4 those three. 5 Q. How would someone reading this know 6 the difference between and ultimate governing 7 body and a national governing body? 	380
3 4 5 6 7 8	that there could be a self-appointed national governing organization? A. Just by kind of going through the years and seeing other organizations do the same thing, we assumed we can do the same thing as well. Q. What other organizations have done that?	 2 protected, as well as the acronym "NGB" are 3 federally protected. So we don't use those 4 those three. 5 Q. How would someone reading this know 6 the difference between and ultimate governing 7 body and a national governing body? 8 A. I'm not 	380
3 4 5 6 7 8 9	that there could be a self-appointed national governing organization? A. Just by kind of going through the years and seeing other organizations do the same thing, we assumed we can do the same thing as well. Q. What other organizations have done that? A. Other various organizations we've	 2 protected, as well as the acronym "NGB" are 3 federally protected. So we don't use those 4 those three. 5 Q. How would someone reading this know 6 the difference between and ultimate governing 7 body and a national governing body? 8 A. I'm not 9 MR. HAYNES: Objection. Form. 	380
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437	On April 11, 2024	439
1 exhibit with the lowest designation, for example.	1 document, we agree that's not	439
2 MR. HAYNES: Right.	2 MR. HAYNES: So so here's my	
3 MS. RICCHIUTO: That has been my	3 position.	
4 effort. If it turns out that I have gotten that	4 MR. HARRIS: It's still confidential,	
5 wrong, and, for example, brought an AEO today	5 right, we're not talking about that.	
6 that Taylor and I have already agreed is not AEO,	6 MS. RICCHIUTO: Understood. No	
7 for whatever reason	7 nothing's going in the newspapers.	
8 MR. HAYNES: Right.	8 MR. HAYNES: Okay. Right.	
9 MS. RICCHIUTO: I'm assuming and	9 MS. RICCHIUTO: Yeah.	
10 hoping that those	10 MR. HAYNES: What he said.	
11 MR. HAYNES: Yeah, so I don't know	11 MS. RICCHIUTO: If you've designated	
12 hardly anything that he knows, and so that	12 it that way or like NFL had its own	
13 he's going that's what you're going to be	13 designations, for example.	
14 doing the actual page and line designation. So	14 MR. HAYNES: And I'm not trying to	
15 he'll know	15 to change the designation of any of the documents	
16 MR. HARRIS: This is just	16 themselves. I'm talking about the conversations	
17 preliminary.	17 around them until his one question might be	
18 MR. HAYNES: This is just preliminary	18 confidential or attorneys' eyes and everything	
19 for the record until until we get the actual	19 else might not be I mean, attorneys' eyes only	
20 record and so that we've got got that covered.	20 and everything else might not. So I'm just	
21 And then what however however he designates	21 trying to cover the topic. Not the the	
22 it and approved by Mark and to myself after we	22 documents are already they're whatever	
· · · · · · · · · · · · · · · · · ·	· ·	
23 see them, that will be the actual designations 24 after that. So yes.	23 they're designated, I'm not trying to change 24 those.	
■		
25 MS. RICCHIUTO: Okay. And do you	25 MS. RICCHIUTO: Okay. That's	440
438 1 have a position, even preliminarily on maybe	1 helpful.	440
we need to go back and look at the PO	2 MR. HAYNES: That's all I have.	
3 paragraph 16 in the protective order says that	3 THE VIDEOGRAPHER: Okay. This	
4 regardless of designation by a party, information	4 concludes the videotaped deposition of	
5 gotten from a third party, even if it's same,	5 Charles Davis. The time is 6:27 p.m. We are off	
6 doesn't carry the designation.	6 the record.	
7 So, for example, I have tried to use	7 (Time noted - 6:27 p.m.)	
	8	
8 Curtis Hollomon or NFL versions where I have 9 them.	8 9	
10 MR. HAYNES: Right.	10	
11 MS. RICCHIUTO: Are we in agreement		
12 that those are no longer AEO?	11 12	
13 MR. HAYNES: I would turn to my	12	
13 MR. HAYNES: I would turn to my 14 co-counsel.	13	
15 Can you opine on that issue?	15	
16 MR. HARRIS: They're no longer AEO.	16	
· ·	17	
18 MR. HARRIS: They've been produced by 19 a third party, so can't take that position.	18	
	19 20	
*		
· ·	21	
22 go through these and, again, I'm not I know	22	
23 you're doing your best while I'm flying	23	
24 through but if we go through these and	24	
25 something was an NFL document or a Curtis	25	

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IN THE UNITED STATES DISTRICT COURT
          FOR THE EASTERN DISTRICT OF TEXAS
               SHERMAN DIVISION
   USA FOOTBALL, INC.,
           Plaintiff, )
                   ) CIVIL ACTION
    VS.
                   ) NO.: 4:23-CV-00465
                   ) and 4:23-CV-00516-ALM
    FFWCT, LLC; USA FLAG, LLC; )
   AND TRAVIS BURNETT,
           Defendants.
10
             REPORTER'S CERTIFICATION
           VIDEOTAPED ORAL DEPOSITION OF
11
            FFWCT, LLC AND USA FLAG, LLC
12
       BY AND THROUGH ITS DESIGNATED REPRESENTATIVE,
13
           AND IN HIS INDIVIDUAL CAPACITY
14
15
               CHARLES DAVIS
16
               APRIL 11, 2024
17
        I, Kim A. McCann, Certified Shorthand Reporter in
18
19 and for the State of Texas, hereby certify to the
20 following:
        That the witness, CHARLES DAVIS, was duly sworn
22 by the officer and that the transcript of the oral
23 deposition is a true record of the testimony given by the
24 witness;
        I further certify that pursuant to FRCP Rule
                                                                     442
   30(f)(1) that the signature of the deponent:
              was requested by the deponent or a party
   before the completion of the deposition and returned
   within 30 days from date of receipt of the transcript.
   If returned, the attached Changes and Signature Page
   contains any changes and the reasons therefor;
           X was not requested by the deponent or a
   party before the completion of the deposition.
        That the amount of time used by each party at the
10 deposition is as follows:
      MS. RICCHIUTO - 7 HOURS: 5 MINUTES
11
        I further certify that I am neither counsel for,
12
13 related to, nor employed by any of the parties or
14 attorneys in the action in which this proceeding was
15 taken.
16
        Further, I am not a relative or employee of any
17 attorney of record in this cause, nor do I have a
   financial interest in the action.
19
        Certified to by me this 19th day of April, 2024.
20
21
               Kim A. McCann, RMR, CRR, CSR
               Texas CSR No. 5520
22
               Expiration Date: 10/31/2025
               Planet Depos Worldwide
23
               451 Hungerford Drive
               Suite 400
24
               Rockville, MD 20850
25
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